

19 CV 2065  
Seibel  
Davison

JS 44C/SDNY  
REV. 06/01/17

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

**PLAINTIFFS**

Midwood Management Corp., as agent for Expressway Plaza I, LLC and Farmingville Associates Phase I, LLC as tenants in common

**DEFENDANTS**

SEARS HOLDINGS CORPORATION, et al.,  
See attached Addendum for names of all Appellees

**ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**

Patrick Collins / Veronique A. Urban  
FARRELL FRITZ, P.C., 400 RXR Plaza, Uniondale, New York 11558  
(516) 227-0700 / Email: pcollins@farrellfritz.com / vurban@farrellfritz.com

**ATTORNEYS (IF KNOWN)**

Jessica Liou/Jacqueline Marcus/Ray C. Schrock/WEIL, GOTSHAL & MANGES  
LLP, 787 Fifth Ave., NY, NY 10153 (212) 310-8000 / Email: jessica.liou@weil.com;  
jacqueline.marcus@weil.com; ray.schrock@weil.com;

**CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)**  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Appeal of an Order entered by the USBC / SDNY.

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

IS THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒ Yes ☐

(PLACE AN [X] IN ONE BOX ONLY)

**NATURE OF SUIT**

TORTS		ACTIONS UNDER STATUTES			
<b>CONTRACT</b>	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 367 HEALTHCARE/	<input type="checkbox"/> 826 DRUG RELATED	<input checked="" type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 378 FALSE CLAIMS
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	<input type="checkbox"/> PHARMACEUTICAL PERSONAL	<input type="checkbox"/> SEIZURE OF PROPERTY	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 379 QUI TAM
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> INJURY/PRODUCT LIABILITY	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 400 STATE
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	<input type="checkbox"/> 365 PERSONAL INJURY	<input type="checkbox"/> 690 OTHER	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> REAPPORTIONMENT
<input type="checkbox"/> INSTRUMENT	<input type="checkbox"/> SLANDER	<input type="checkbox"/> PRODUCT LIABILITY			<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> 330 FEDERAL	<input type="checkbox"/> 368 ASBESTOS PERSONAL	<b>PROPERTY RIGHTS</b>		<input type="checkbox"/> 430 BANKS & BANKING
<input type="checkbox"/> OVERPAYMENT &	<input type="checkbox"/> EMPLOYERS'	<input type="checkbox"/> INJURY PRODUCT	<input type="checkbox"/> 820 COPYRIGHTS		<input type="checkbox"/> 450 COMMERCE
<input type="checkbox"/> ENFORCEMENT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 830 PATENT		<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> OF JUDGMENT	<input type="checkbox"/> 340 MARINE	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 835 PATENT-ABBREVIATED NEW DRUG APPLICATION		<input type="checkbox"/> 470 RACKETEER INFLU-
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT	<input type="checkbox"/> 370 OTHER FRAUD	<input type="checkbox"/> 840 TRADEMARK	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> ENCED & CORRUPT
<input type="checkbox"/> 152 RECOVERY OF	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING			<input type="checkbox"/> ORGANIZATION ACT
<input type="checkbox"/> DEFAULTED	<input type="checkbox"/> 350 MOTOR VEHICLE				<input type="checkbox"/> (RICO)
<input type="checkbox"/> STUDENT LOANS	<input type="checkbox"/> 355 MOTOR VEHICLE	<b>LABOR</b>			<input type="checkbox"/> 480 CONSUMER CREDIT
<input type="checkbox"/> (EXCL VETERANS)	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> 710 FAIR LABOR			<input type="checkbox"/> 490 CABLE/SATELLITE TV
<input type="checkbox"/> RECOVERY OF	<input type="checkbox"/> 360 OTHER PERSONAL	<input type="checkbox"/> STANDARDS ACT			
<input type="checkbox"/> OVERPAYMENT	<input type="checkbox"/> INJURY	<input type="checkbox"/> 720 LABOR/MGMT			
<input type="checkbox"/> OF VETERANS	<input type="checkbox"/> 362 PERSONAL INJURY -	<input type="checkbox"/> RELATIONS			
<input type="checkbox"/> BENEFITS	<input type="checkbox"/> MED MALPRACTICE	<input type="checkbox"/> 740 RAILWAY LABOR ACT			
<input type="checkbox"/> 160 STOCKHOLDERS		<input type="checkbox"/> 751 FAMILY MEDICAL			
<input type="checkbox"/> SUITS	<b>ACTIONS UNDER STATUTES</b>	<input type="checkbox"/> LEAVE ACT (FMLA)			
<input type="checkbox"/> OTHER	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 790 OTHER LABOR			
<input type="checkbox"/> CONTRACT	<input type="checkbox"/> 440 OTHER CIVIL RIGHTS	<input type="checkbox"/> LITIGATION			
<input type="checkbox"/> CONTRACT	<input type="checkbox"/> (Non-Prisoner)	<input type="checkbox"/> 791 EMPL RET INC			
<input type="checkbox"/> PRODUCT		<input type="checkbox"/> SECURITY ACT (ERISA)			
<input type="checkbox"/> LIABILITY		<b>IMMIGRATION</b>			
<input type="checkbox"/> 166 FRANCHISE		<input type="checkbox"/> 482 NATURALIZATION			
		<input type="checkbox"/> APPLICATION			
<b>REAL PROPERTY</b>		<input type="checkbox"/> 485 OTHER IMMIGRATION			
<input type="checkbox"/> 210 LAND	<input type="checkbox"/> 441 VOTING	<input type="checkbox"/> ACTIONS			
<input type="checkbox"/> CONDEMNATION	<input type="checkbox"/> 442 EMPLOYMENT				
<input type="checkbox"/> 220 FORECLOSURE	<input type="checkbox"/> 443 HOUSING/				
<input type="checkbox"/> 230 RENT LEASE &	<input type="checkbox"/> ACCOMMODATIONS				
<input type="checkbox"/> EJECTMENT	<input type="checkbox"/> 445 AMERICANS WITH				
<input type="checkbox"/> 240 TORTS TO LAND	<input type="checkbox"/> DISABILITIES -				
<input type="checkbox"/> 245 TORT PRODUCT	<input type="checkbox"/> EMPLOYMENT				
<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 446 AMERICANS WITH				
<input type="checkbox"/> 250 ALL OTHER	<input type="checkbox"/> DISABILITIES -OTHER				
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> 448 EDUCATION				

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.  
AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 137  
IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

- ORIGIN**
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation (Transferred) ☐ 7 Appeal to District Judge from Magistrate Judge ☐ 8 Multidistrict Litigation (Direct File)
- ☐ a. all parties represented ☐ b. At least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

- BASIS OF JURISDICTION**
- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

**IF DIVERSITY, INDICATE CITIZENSHIP BELOW.**

**CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)**

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[ ]	[ ]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ]	[ ]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ]	[ ]
CITIZEN OF ANOTHER STATE	[ ]	[ ]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ]	[ ]	FOREIGN NATION	[ ]	[ ]

**PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)**

Midwood Management Corp., as agent for Expressway Plaza I, LLC and Farmingville Associates Phase I, LLC as tenants in common  
430 Park Avenue, Suite 201  
New York, New York 10023  
New York County

**DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)**

3333 Beverly Road  
Hoffman Estates, Illinois 60179

**DEFENDANT(S) ADDRESS UNKNOWN**

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

**COURTHOUSE ASSIGNMENT**

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☒ WHITE PLAINS ☐ MANHATTAN

DATE 3/5/19

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[ ] NO

☒ YES (DATE ADMITTED Mo. Dec. Yr. 1999)

Attorney Bar Code # PC8093

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

**CIVIL COVER SHEET ADDENDUM**

**Names of Appellees:**

Sears Holdings Corporation	Sears Brands Business Unit Corporation
Kmart Holding Corporation	Sears Holdings Publishing Company, LLC.
Kmart Operations LLC	Sears Protection Company (Florida), L.L.C.
Sears Operations LLC	SHC Desert Springs, LLC
Sears, Roebuck and Co.	SOE, Inc.
ServiceLive Inc.	StarWest, LLC
SHC Licensed Business LLC	STI Merchandising, Inc.
A&E Factory Service, LLC	Troy Coolidge No. 13, LLC
A&E Home Delivery, LLC	BlueLight.com, Inc.
A&E Lawn & Garden, LLC	Sears Brands, L.L.C.
A&E Signature Service, LLC	Sears Buying Services, Inc.
FBA Holdings Inc.	Kmart.com LLC
Innovel Solutions, Inc.	Sears Brands Management Corporation
Kmart Corporation	SRe Holding Corporation
MaxServ, Inc.	
Private Brands, Ltd.	
Sears Development Co.	
Sears Holdings Management Corporation	
Sears Home & Business Franchises, Inc.	
Sears Home Improvement Products, Inc.	
Sears Insurance Services, L.L.C.	
Sears Procurement Services, Inc.	
Sears Protection Company	
Sears Protection Company (PR) Inc.	
Sears Roebuck Acceptance Corp.	
Sears, Roebuck de Puerto Rico, Inc.	
SYW Relay LLC	
Wally Labs LLC	
SHC Promotions LLC	
Big Beaver of Florida Development, LLC	
California Builder Appliances, Inc.	
Florida Builder Appliances, Inc.	
KBL Holding Inc.	
KLC, Inc.	
Kmart of Michigan, Inc.	
Kmart of Washington LLC	
Kmart Stores of Illinois LLC	
Kmart Stores of Texas LLC	
MyGofer LLC	